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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,695	07/23/2001	Reto Schoeb	015258-053700US	6977
20350	7590	10/23/2003	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			SORKIN, DAVID L	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 10/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/912,695

Applicant(s)

SCHOEB, RETO

Examiner

David L. Sorkin

Art Unit

1723

--Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see Detail Action.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see Detailed Action.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 7.

Claim(s) rejected: 1, 4-6 and 8-14.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

DETAILED ACTION

1. Applicant is reminded to include a listing of all claims in any amendment or proposed amendment. Claim 15, which is canceled, should have been listed in the proposed amendment.
2. Several of the proposed claims, such as claims 11-13, are broadened in that a plurality of magnets is no longer required. Further consideration and/or search would therefore be required. The current versions of claims 11-13 are rejected under section 103, but not section 102; however, entry of the proposed amendment would likely require rejection of one or more of these claims under section 102.
3. Applicant refers to an alleged "English translation" of FR 2,449,473; however, the examiner is not aware of any such translation being made of record. The examiner cannot fully consider applicant's arguments without a copy of the translation to which applicant refers. The examiner does not considered that the word "tip" excludes a structure which tapers to an end, even if the end has a ring-shaped cross-section. For example, bullets tapering to a central ring-shaped end are referred to as hollow point or hollow tipped bullets.
4. The examiner continues to consider that Fig. 2 of FR 2,449,473 discloses the claimed "bar tapering into a tip at the lower end". The examiner is required to apply the broadest reasonable interpretation of claim terminology consistent with the specification. See *In re Morris* 44 USPQ2d 1023, 1027 (Fed. Cir. 1997). Applicant states that Webster's Third New International Dictionary defines "tip" as "the pointed or rounded end or extremity of something". It is considered that tip 12 of FR 2,449,473 meets this

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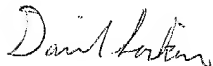
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definition because it tapers to an endpoint, as seen in Fig. 2. Merriam-Webster's Collegiate Dictionary, 10th edition, provides the following definition of "tip" (among other definitions): "a small piece or part serving as an end, cap or point". Tip 12 of FR 2,449,473 clearly meets this definition as seen in Fig. 2.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 703-308-1121. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 703-308-0457. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



David Sorkin



CHARLES E. COOLEY
PRIMARY EXAMINER